

Section 8. Opening Statement and Final Arguments

(a) Scope of Opening. Counsel on each side, in opening the case to the jury, shall only state the facts proposed to be proven. During opening statement counsel may use a blackboard or paper for illustration only. There shall be no display to the jury of, nor reference to, any chart, graph, map, picture, model or any other graphic device unless, outside the presence of the jurors:

- (1) it has been admitted into evidence; or
- (2) such display or reference has been stipulated to; or
- (3) leave of court for such reference or display has been obtained.

(b) Final Arguments. Final arguments to the jury shall not misstate the evidence. During final argument counsel may use a blackboard or paper for illustration only. A graphic device, such as a chart, summary or model, which is to be used for illustration only in argument shall be prepared and shown to opposing counsel before commencement of the argument. Upon request by opposing counsel, it shall remain available for reference and be marked for identification.

(c) Objections. Objections to remarks by counsel either in the opening statement to the jury or in the closing argument shall be made while such statement or argument is in progress or at the close of the statement or argument. Any objection shall be argued outside the juror's hearing. If the court is uncertain whether there has been a misstatement of the evidence in final argument, the jurors shall be instructed to rely on their own recollections.

Cross Reference: Minn. R. Civ. P. 39.04; Minn. Gen. R. Prac. 124.

Task Force Comment - 1991 Adoption

Subsection (a) is derived from Rule 27(a) of the Code of Rules for the District Court and existing Trialbook paragraph 17.

Subsection (b) is derived from existing Trialbook paragraphs 30 and 44.

Subsection (c) is derived from Rule 27(f) of the Code of Rules and existing Trialbook paragraph 31.